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*Attorneys for Defendants MidFirst and MERS*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

MARCUS R. FOSTER,

Plaintiff,

vs

MIDFIRST BANK, QUALITY LOAN  
SERVICE CORPORATION, MORTGAGE  
ELECTRONIC REGISTRATION SYSTEM  
(MERS),

Defendant(s).

Case No. 2:22-cv-00526-CDS-NJK

**ORDER GRANTING EXPUNGEMENT  
OF LIS PENDENS (ECF 11)**

Defendants MidFirst Bank (“MidFirst”) and Mortgage Electronic Registration Systems, Inc. (erroneously sued as “Mortgage Electronic Registration System (MERS)”) (“MERS”), by and through their counsel of record, Kristin Schuler-Hintz, Esq. and Matthew P. Pawlowski, Esq., of the law firm and McCarthy & Holthus, LLP, having filed Defendants’ Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, as to Plaintiff’s Complaint, filed March 25, 2022 (hereinafter, “Motion”), filed as ECF 7, and having subsequently filed a Supplement to Defendants’ Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, as to Plaintiff’s Complaint (ECF 15), requesting expungement of the lis pendens filed by Plaintiff on April 25, 2022 (ECF 11) and recorded against the real property at issue in this action, identified as 420 Groft Way, Henderson, Nevada 89015 (APN No. 179-17-514-030) (“Subject Property”) in the Clark County Recorder’s Office on April 26, 2022 as instrument No. 20220426-0001612.

This Honorable Court having set the time and date of hearing on Defendants' Motion on May 18, 2022 at the hour of 9:30 a.m., having read and reviewed all papers and pleadings on file in this matter and having taken argument of the parties at the time of hearing, and for good cause shown, hereby orders, as follows:

**IT IS HEREBY ORDERED** that at the time of hearing on Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, as to Plaintiff's Complaint (ECF 15) on May 18, 2022 at 9:30 a.m., Plaintiff's Complaint was dismissed with prejudice.

**IT IS FURTHER ORDERED** that, as Plaintiff's Complaint was dismissed with prejudice, expungement of the lis pendens filed by Plaintiff on April 25, 2022 (ECF 11) and recorded against the Subject Property in the Clark County Recorder's Office on April 26, 2022 in the official records of Clark County, Nevada as instrument No. 20220426-0001612 is appropriate, pursuant to *Wensley v. First Nat. Bank of Nevada*, 874 F. Supp. 2d 957, 968 (D. Nev. 2012) (expungement of a lis pendens after dismissing a complaint with prejudice).

**IT IS FURTHER ORDERED** that, in accordance with the dismissal of Plaintiff's Complaint with prejudice on May 18, 2022, the lis pendens filed by Plaintiff on April 25, 2022 (ECF 11) and recorded against the Subject Property in the Clark County Recorder's Office on April 26, 2022 as instrument No. 20220426-0001612 is hereby EXPUNGED and is of no further legal force and effect against the Subject Property.

**IT IS SO ORDERED.**

DATED: June 24, 2022

  
 UNITED STATES DISTRICT JUDGE

The submitting party certifies to this Court, pursuant to L.R. 7-2(f) that Plaintiff Marcus R. Foster was served with the proposed order via e-mail on May 19, 2022. Plaintiff Marcus R. Foster did not, within three days of having been served with the Proposed Order, respond to the submitting party either with approval of the Proposed Order or respond and state any reasons for

1 disapproval. To date, no approval or disapproval has been received from Marcus R. Foster  
2 regarding the form and/or content of this Proposed Order.

3 Respectfully Submitted By:

Approved as to form and content:

4 **MCCARTHY & HOLTHUS, LLP**

**MARCUS R. FOSTER**

5 /s/ Kristin A. Schuler-Hintz

/s/ NO RESPONSE RECEIVED

6 Kristin A. Schuler-Hintz, Esq. SBN: 7171

Marcus R. Foster

7 Matthew P. Pawlowski, Esq. SBN 9889

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*Plaintiff in Proper Person*

8 *Attorneys for MidFirst and MERS*

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## Matthew Pawlowski

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**From:** Matthew Pawlowski  
**Sent:** Thursday, May 19, 2022 11:48 AM  
**To:** 'Moerome3@gmail.com'  
**Cc:** IDSMH  
**Subject:** NV-22-914217-CV - Foster v. MidFirst Bank and MERS - Order granting expungement of lis pendens for review.  
**Attachments:** Order Granting Motion to Expunge Lis Pendens.pdf

Good morning, Mr. Foster –

Per the Court's order and instruction yesterday, attached please find a draft/proposed order expunging the lis pendens against the Groft Way property. Please forward any proposed edits or additions for my review.

Thank you,

Matthew P. Pawlowski, Esq. | Associate Attorney NV | Member State Bar of NV



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Should escalation be required, please contact: Matt Podmenik, Esq. at [Khintz@mccarthyholthus.com](mailto:Khintz@mccarthyholthus.com)

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